material, as "commerce," "product," "fabric," or "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products, and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the product which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products and of the results thereof, (4) any disposition of said products since August 25, 1970, and (5) any action taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight to 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Upon request of the Commission respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: May 18, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-9606 Filed 7-7-71;8:48 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-394, etc.]

PART 154—RATE SCHEDULES AND TARIFFS

Southern Louisiana Area

JUNE 29, 1971.

Termination of moratorium provisions in southern Louisiana, Docket No. R-394; area rate proceeding (southern Louisiana), Docket No. AR61-2 etc., Docket No. AR69-1.

In Order No. 413 issued October 27, 1970 in Docket No. R-394 (44 FPC ——) the Commission terminated the moratorium on above ceiling increased rate filings prescribed in Opinion Nos. 546 (40 FPC 530) and 546-A (41 FPC 301). Thereafter, on rehearing the Commission modified Order No. 413 by order issued December 24, 1970 in the above-entitled proceedings (44 FPC ——) to prohibit any increased rate filing in excess of the rate levels prescribed in ordering paragraph (A) of the December 24 order. Pursuant to ordering paragraph (B) in the December 24 order, the rate filing prohibition is to remain in effect until July 1, 1971.

By order issued March 15, 1971 in Dockets Nos. AR61-2 and AR69-1 the intermediate decision procedure was omitted. Since then, the parties in these proceedings have filed initial and reply briefs in accordance with the time limitations set forth in the March 15 order. These proceedings are therefore now pending before the Commission for the determination of just and reasonable rates for sales in the southern Louisiana area.

In these circumstances, we believe it appropriate for the same reasons set forth in the December 24 order to modify that order so as to extend the prohibition against increased rate filings above the rate levels prescribed in ordering paragraph (A) thereof until September 30, 1971, or until the time the Commission issues an opinion and order establishing just and reasonable rates for jurisdictional sales from southern Louisiana, whichever is the earlier date.

The Commission finds: It is necessary and appropriate in the public interest and for carrying out the provisions of the Natural Gas Act that Order No. 413 be modified as hereinafter ordered.

The Commission orders:

(A) The limitations on increased rate filings set forth in Ordering Paragraph (A) of the Commission's order issued December 24, 1970, in the above-entitled proceedings shall remain in effect until September 30, 1971, or until such time as the Commission issues an opinion and order establishing just and reasonable rates for jurisdictional sales of natural gas from southern Louisiana, whichever occurs at the earlier date.

(B) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-9593 Filed 7-7-71;8:47 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. 7130]

LIQUOR DEALERS, STILLS, DISTILLED SPIRITS, AND BEER

On March 3, 1971, a notice of proposed rule making to amend 26 CFR Parts 194, 196, 197, 201, and 245, was published in the FEDERAL REGISTER (36 F.R. 4048). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice. However, in recognition of changes in regulations made by T.D. 7110 (36 F.R. 8033), T.D. 7112 (36 F.R. 8568), and T.D. 7113 (36 F.R. 8798), and further consideration of the proposed changes, the amendments as published in the FEDERAL REGISTER are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph C1 is changed to include § 197.109 in the listing of sections amended.

PAR. 2. Paragraph C3 is deleted.

PAR. 3. Paragraph C4 is amended by deleting, in the last sentence of § 197.41, the cross-reference to § 197.40 and inserting instead a cross-reference to § 197.47a.

PAR. 4. A new paragraph, paragraph C4a, is added immediately following paragraph C4 to prescribe a new section, § 197.47a, relating to retention of special tax stamps. As added, paragraph C4a reads as follows:

4a. A new section, § 197.47a, is added immediately following § 197.47 to provide for retention of special tax stamps.

PAR. 5. Paragraph D1 is changed by deleting the amendment to § 201.31 and adding in lieu thereof a new section, § 201.35a.

PAR. 6. Paragraph D6 is changed by amending § 201.527.

PAR. 7. Paragraph D8 is changed by amending § 201.563.

PAR. 8. Paragraph E1 is changed by deleting §§ 245.253 and 245.257 from the listing of sections amended.

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER.

(Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

Approved: July 1, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

In order to: (1) Implement the provisions of Public Law 87–863 which amended the Internal Revenue Code by providing that only one special tax as a retail dealer in liquors need be paid by a State, a political subdivision of a State, or the District of Columbia, regardless of the number of locations at which such business is conducted; (2) implement the provisions of Public Law 90–615 which amended the Internal Revenue Code by extending the period in which a nonbeverage drawback claim may be filed from 3 to 6 months following the quarter in which the distilled spirits are used; (3) implement the provisions of Public Law 90–618 which amended the Internal Revenue Code by repealing the requirement that district directors maintain a list of special taxpayers for public inspection and by exempting persons who pay special tax pursuant to Subtitle E of the Code from posting occupational tax stamps; (4) conform to the change in name of the Alcohol and Tobacco Tax Function; and (5) make miscellaneous and clarifying and editorial changes, the regulations in 26 CFR Parts 194, 196, 197, 201, and 245 are amended as follows:

PART 194—LIQUOR DEALERS

Paragraph A. 26 CFR Part 194 is amended as follows:

1. Section 194.4 is amended to change the words "this part" to "Chapter 51, I.R.C." and to restrict application of § 194.4 to certain taxes by inserting a reference to § 194.1. As amended, § 194.4 reads as follows:

§ 194.4 Relation to State and municipal law.

The payment of any tax imposed by Chapter 51, I.R.C., for carrying on any trade or business specified in § 194.1 shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

(72 Stat. 1348; 26 U.S.C. 5145)

§ 194.11 [Amended]

2. Section 194.11 is amended by changing "alcohol and tobacco tax" to read "alcohol, tobacco and firearms" in the definition of assistant regional commissioner and by changing "Alcohol and Tobacco Tax Division" to read "Alcohol, Tobacco and Firearms Division" in the definition of Director.

3. Section 194.31 is amended to provide that States, political subdivision thereof, or the District of Columbia need pay only one special tax as a retail dealer in liquors regardless of the number of retail liquor stores operated. As amended, § 194.31 reads as follows:

§ 194.31 States, political subdivisions thereof, or the District of Columbia.

A State, a political subdivision thereof, or the District of Columbia which engages in the business of selling, or offering for sale, distilled spirits, wines, or beer is not exempt from special tax. However, no such governmental entity shall be required to pay more than one special tax as a retail dealer in liquors regardless of the number of locations at which such entity carries on business as a retail dealer in liquors. Any such governmental entity which has paid the applicable wholesale dealer special tax at its principal office, and has paid the applicable special tax as a retail dealer, shall not be required to pay additional wholesale dealer special tax at its retail stores by reason of the sale thereat of distilled spirits, wines, or beer, to dealers qualified to do business as such within the jurisdiction of such entity.

(72 Stat. 1340, 1343, 1344, as amended; 26 U.S.C. 5111, 5113, 5121, 5123)

4. Section 194.51 is amended by inserting a reference to § 194.31 and by deleting the reference to Subpart L and inserting in lieu thereof reference to §§ 194.181–194.193. As amended, § 194.51 reads as follows:

§ 194.51 Special tax liability incurred at each place of business.

Except as provided in §§ 194.31 and 194.181–194.193, liability to special tax is incurred at each and every place where distilled spirits, wines, or beer are sold or offered for sale: *Provided*, That the term "place" as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to require the payment of additional special tax, if the various divisions are otherwise contiguous.

(72 Stat. 1347; 26 U.S.C. 5143)

5. The center heading preceding § 194.131 and § 194.131 are amended by deleting the reference to posting of a special tax stamp and providing instead that the stamp be available for examination by any internal revenue officer. As amended, the center heading and § 194.131 read as follows:

STAMP TO BE AVAILABLE FOR EXAMINATION

§ 194.131 General.

A dealer shall keep his special tax stamp available in his place of business for inspection by any internal revenue officer during business hours. A dealer holding a special tax stamp as a retail dealer in liquors or a retail dealer in beer "At Large" or "In the United States" shall keep the stamp available for inspection where he is conducting such business.

(72 Stat. 1348; 26 U.S.C. 5146)

6. The center heading "Missing Stamps" immediately preceding §194.132 is deleted.

7. Section 194.132 is amended to provide that a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" shall be kept available for examination by any internal revenue officer. As amended, § 194.132 reads as follows:

§ 194.132 Lost or destroyed.

If a special tax stamp has been lost or destroyed, the dealer shall immediately notify the director of the service center who issued the stamp. A "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" will be issued to the dealer who submits an affidavit showing to the satisfaction of the director of the service center that the stamp was lost or destroyed. The certificate shall be kept available for inspection in the same manner as prescribed for a special tax stamp in § 194.131.

§§ 194.140–194.142 [Revoked]

8. The center heading "Record 10" immediately preceding § 194.140 and §§ 194.140, 194.141, and 194.142 are revoked.

9. Sections 194.230, 194.234, 194.239 (a), and 194.241 are amended to provide that the application referred to in each section is to be submitted in duplicate. As amended, §§ 194.230, 194.234, 194.239(a), and 194.241 read as follows:

§ 194.230 Recapitulation records.

Every wholesale dealer in liquors shall, daily, prepare a recapitulation record showing the total quantities of distilled spirits received and disposed of during the day: *Provided*, That, upon receipt of an application, in duplicate, and on his finding that preparation of the recapitulation daily is not necessary to law enforcement or protection of the revenue, the assistant regional commissioner may authorize a dealer to prepare such record less frequently until otherwise notified. The assistant regional commissioner's authorization shall specify the intervals at which the recapitulation

shall be prepared and shall provide that the authorization may be withdrawn if, in the opinion of the assistant regional commissioner, preparation of a daily recapitulation by the dealer is necessary to law enforcement or to protection of the revenue.

§ 194.234 Daily reports, Forms 52A and 52B.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall prepare and submit, daily, a report on Form 52A of all distilled spirits received by him, and on Form 52B of all distilled spirits disposed of by him. The reports shall be filed with the assistant regional commissioner or other officer designated by him. Each report shall bear the following declaration signed by the dealer or his authorized agent:

I declare under the penalties of perjury that this report, consisting of _____ pages, has been examined by me and to the best of my knowledge and belief is a true, correct, and complete report of all the transactions which occurred during the period covered thereby, and each entry therein is correct.

If in any case the assistant regional commissioner shall so authorize, the reports, in lieu of being filed daily, may be filed for such periods and at such times as he may deem necessary in the interest of the Government, or, upon receipt of an application, in duplicate, and a finding by the assistant regional commissioner that such reporting is not necessary to law enforcement or protection of the revenue, he may relieve a dealer from the requirement of preparing and submitting such daily or periodic reports on Forms 52A and 52B until otherwise notified.

(68A Stat. 749, 72 Stat. 1342; 26 U.S.C. 5055, 5114)

§ 194.239 Requirements for retail dealers.

(a) *Records of receipts.* Each retail dealer in liquors and each retail dealer in beer shall keep at his place of business complete records of all distilled spirits, wines, or beer received, showing (1) the quantities thereof, (2) from whom received, and (3) the receiving dates: *Provided*, That in cases where wines and beer are retailed only for off-premises consumption, the assistant regional commissioner may, pursuant to an application in duplicate, authorize the records to be maintained at other premises under control of the same dealer if he finds that such maintenance will not cause undue inconvenience to internal revenue officers desiring to examine such records. Records of receipts shall consist of all purchase invoices or bills covering distilled spirits, wines, and beer received, or, at the option of the dealer, a book record containing all of the required information.

* * * * *

§ 194.241 Place of filing.

Prescribed records of receipt and disposition and file copies of Forms 52A, 52B, 338, and the recapitulation records required by § 194.230, shall be maintained in chronological order in separate files at the premises where the distilled spirits are received and sent out: *Provided*, That the assistant regional commissioner may, pursuant to an application, in duplicate, submitted by the wholesale dealer, authorize the files, or any individual file, to be maintained at other premises under control of the same dealer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to internal revenue officers desiring to examine such files.

(72 Stat. 1342; 26 U.S.C. 5144)

10. Section 194.247 is amended by deleting the reference to the posting of special tax stamps. As amended § 194.247 reads as follows:

§ 194.247 Other dealers; no sign required.

Internal revenue laws do not require the posting of signs by retail dealers in liquors, retail dealers in beer, or wholesale dealers in beer.

PART 196—STILLS

PAR. B. 26 CFR Part 196 is amended as follows:

§§ 196.2, 196.8, 196.32 [Amended]

1. Sections 196.2, 196.8, and 196.32 are amended by changing "Alcohol and Tobacco Tax Division", wherever such term appears, to read "Alcohol, Tobacco and Firearms Division".

§ 196.6 [Amended]

2. Section 196.6 is amended by changing "Assistant Regional Commissioner, Alcohol and Tobacco Tax," to "assistant regional commissioner, alcohol, tobacco and firearms,".

3. Section 196.31 is amended to provide that the notice referred to is to be submitted in duplicate and to delete "of the region." As amended, § 196.31 reads as follows:

§ 196.31 Manufacturer to notify assistant regional commissioner.

Any person making such changes, repairs, or alterations of a still or condenser will immediately give notice, in duplicate, to the assistant regional commissioner of the extent of such repairs or alterations, advising him of the quantity and cost of new materials and parts and the precise nature of the changes. If the changes, repairs, or alterations are involved or complicated, a sketch of the apparatus showing the changes or alterations should also be furnished the assistant regional commissioner for determination of tax liability. If such is available, information as to the initial cost of the construction of the apparatus should likewise be furnished the assistant regional commissioner.

(72 Stat. 1339; 26 U.S.C. 5102)

4. Section 196.37 is amended to provide that the special tax stamp shall be available for inspection by any internal revenue officer. As amended, § 196.37 reads as follows:

§ 196.37 Examination of special tax stamp.

The stamp issued as a receipt for the payment of the special (occupational) tax shall be kept at the still manufacturer's place of business, available for inspection by any internal revenue officer during business hours.

(72 Stat. 1348; 26 U.S.C. 5146)

5. Section 196.80 is amended to delete the reference to "the territory of Hawaii" and to provide that the application referred to is to be submitted in duplicate. As amended, § 196.80 reads as follows:

§ 196.80 Removal for domestic use.

Distilling apparatus which is to be used within the United States and the District of Columbia for purposes other than for distilling, as defined in § 196.10, is exempted from the procedure and requirements set forth in §§ 196.42 to 196.47. Manufacturers and vendors of distilling apparatus for purposes other than for distilling shall maintain at their premises a record showing all stills manufactured, received, and removed or otherwise disposed of. Such record shall show the name and address of the purchaser and the purpose for which each still is to be used. Such records will be kept available for a period of 2 years for inspection by internal revenue officers. At the close of each month, and not later than 10 days thereafter, the manufacturer or vendor shall submit a report to the assistant regional commissioner of the region in which his premises are located showing the number of stills on hand at the beginning of the month, the number received, the number disposed of, the number on hand at the end of the month, and as to each such still removed, the name and address of the purchaser and the type, capacity, and kind. Each report shall be signed by the manufacturer or vendor or his authorized agent and immediately above the signature there shall appear the following statement, "I declare under the penalties of perjury that this report has been examined by me and to the best of my knowledge and belief is a true and correct report." Upon application, in duplicate, by the manufacturer or vendor, the assistant regional commissioner may waive the requirement for the submission of such report when he finds that such waiver will not jeopardize the revenue. Such waiver shall terminate upon notification by the assistant regional commissioner to the manufacturer or vendor.

§ 196.81 [Amended]

6. Section 196.81 is amended to provide a correct cross-reference by changing "§ 196.63" to read "§ 196.61".

PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

PAR. C. 26 CFR Part 197 is amended as follows:

§§ 197.2, 197.8, 197.98, 197.109 [Amended]

1. Sections 197.2, 197.8, 197.98, and 197.109 are amended by changing "Alcohol and Tobacco Tax Division", wherever the term appears, to read "Alcohol, Tobacco and Firearms Division."

§ 197.6 [Amended]

2. Section 197.6 is amended by changing "Alcohol and Tobacco Tax" to "alcohol, tobacco and firearms".

4. Section 197.41 is amended to provide that a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" shall be kept available for inspection by any internal revenue officer. As amended, § 197.41 reads as follows:

§ 197.41 Lost or destroyed stamps.

If a special tax stamp is lost or accidentally destroyed, the taxpayer should immediately notify the director of the service center who issued the stamp, who will issue to the taxpayer a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp." The certificate shall be kept available for inspection in the same manner as prescribed for a special tax stamp in § 197.47a.

4a. A new section, § 197.47a, is added immediately following § 197.47 to provide for retention of special tax stamps. As added, new § 197.47a reads as follows:

§ 197.47a Retention of special tax stamps.

Special tax stamps shall be kept available for inspection by any internal revenue officer during business hours.

(72 Stat. 1348; 26 U.S.C. 5146)

5. Section 197.95 is amended by changing "Alcohol and Tobacco Tax Division", wherever the term appears, to "Alcohol, Tobacco and Firearms Division", and by deleting "Washington 25, D.C." inasmuch as the address appears on Form 1678. As amended, § 197.95 reads as follows:

§ 197.95 Products requiring formulas.

Manufacturers intending to file drawback claims are required to file quantitative formulas for all preparations except those covered by § 197.96. Such formulas should be sent direct to the Director, Alcohol, Tobacco and Firearms Division, on Form 1678, in quadruplicate, before or at the time of manufacture of the products. Upon receipt by the Director, Alcohol, Tobacco and Firearms Division, the formulas will be examined and if found to be medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for beverage purposes they will be approved. If the formulas do not meet the requirements of the law for drawback products, they will be disapproved. No drawback will be allowed on distilled spirits used in a disapproved product, unless such product is later used in the manufacture of an approved nonbeverage product. The formulas should be serially numbered, commencing with number one and continuing thereafter in numerical sequence. Amended or revised formulas will be considered as new formulas and serially numbered accordingly. One copy of each formula will be retained by the Director, Alcohol, Tobacco and Firearms Division, one copy returned to the manufacturer, and the original and one copy will be sent to the assistant regional commissioner for filing. The formulas returned to manufacturers shall be filed in serial order by the manufacturer and made available for examination by internal revenue officers in the investigation of drawback claims. In the case of food products, such as preserved fruits, cakes, soups, etc., it will be sufficient if the formulas therefor show the quantity of proof gallons of distilled spirits used in the production of a given quantity of finished product.

6. Section 197.96 is amended to specify that only current revisions and editions of the United States Pharmacopoeia, National Formulary, or Homeopathic Pharmacopoeia of the United States are acceptable. As amended, § 197.96 reads as follows:

§ 197.96 Products not requiring formulas.

Quantitative formulas need not be submitted if the products are medicinal preparations, tinctures, or fluid extracts produced under formulas prescribed by current revisions or editions of the United States Pharmacopoeia, the National Formulary, or the Homeopathic Pharmacopoeia of the United States, and such products are identified in the supporting data by name and followed by the letters "U.S.P.," "N.F.," or "H.P.U.S.," as the case may be.

7. Section 197.106 is amended to incorporate the provisions of Revenue Ruling 63-67 which held that a manufacturer who is qualified to file claims on a monthly basis may file one, two, or three claims covering alcohol used during a quarter. As amended, § 197.106 reads as follows:

§ 197.106 Claims.

The claim for drawback shall be filed on Form 843 (original only) with the assistant regional commissioner, for the region in which the place of manufacture is located, and shall pertain only to distilled spirits used in the manufacture or production of nonbeverage products during any one quarter of the year, and only one claim may be filed for each quarter: *Provided*, That where the manufacturer has notified the assistant regional commissioner, in writing, of his intention to file claims on a monthly basis, in lieu of a quarterly basis, and has filed a bond in compliance with the provisions of § 197.107, claims may be filed monthly in lieu of quarterly. The election to file claims on a monthly basis will not preclude a manufacturer from filing a single claim covering alcohol used during a quarter, or a single claim for two months of a quarter, or two claims, one for 1 month and one for 2 months. The month or months covered by the claim should be specifically identified, and the claimant may be required to separate the necessary data into the individual months covered by the claim. An election for the filing of monthly claims may be revoked upon filing of notice thereof, in writing, with the assistant regional commissioner.

8. Section 197.108 is amended to extend the filing period for claims from three to six months to conform to the amendment of section 5134(b), I.R.C., made by Public Law 90-615. As amended, § 197.108 reads as follows:

§ 197.108 Date of filing claim.

Quarterly claims for drawback shall be filed with the assistant regional commissioner within the 6 months next succeeding the quarter in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products. Monthly claims for drawback may be filed at any time after the end of the month in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products, but must be filed not later than the close of the sixth month succeeding the quarter in which such spirits were used.

(72 Stat. 1346, as amended, 26 U.S.C. 5134)

9. Section 197.113 is amended by deleting the reference to Form 2630 and by inserting in lieu thereof a reference to Form 179 and to the commercial invoice provided for in § 197.130b. As amended, § 197.113 reads as follows:

§ 197.113 Distilled spirits received in barrels, drums, or other portable containers.

Each claim covering distilled spirits received in barrels, drums, or other portable containers bearing distilled spirits stamps shall be accompanied by a statement showing: the date of receipt; the name and address of the vendor; the kind and serial number of the stamp affixed to the container and the date the stamp was issued or affixed as stated on the stamp; the serial number, if any, of the container; the name of the producer, blender, or warehouseman as shown on Form 179 or on the commercial invoice provided for in § 197.130b; and the kind, quantity, and proof of the spirits. (When the container is emptied, the stamp shall be completely destroyed.)

10. Section 197.114 is amended by deleting the requirement that the statement accompanying a claim covering distilled spirits received in bottles show the serial number of the strip stamp affixed to the bottle. As amended, § 197.114 reads as follows:

§ 197.114 Distilled spirits received in bottles.

Each claim covering distilled spirits received in bottles will be accompanied by a statement showing: the date of receipt; the name and address of the vendor; the name of the bottler; and the kind, quantity, and proof of the spirits.

11. A new section, § 197.130a, which incorporates the provisions of Revenue Ruling 68-259, is inserted immediately following § 197.130, to provide that the quantity of distilled spirits received shall

be determined accurately. The new section, § 197.130a, reads as follows:

§ 197.130a Distilled spirits received and used.

(a) *Receipts.* Each manufacturer shall, at the time of receipt, determine, preferably by weight, and record in his permanent records, the exact quantity of distilled spirits received: *Provided*, That if the spirits are received in a tank car or tank truck and the result of the manufacturer's gauge of the spirits is within 0.2 percent of the quantity reported on the Form 179 covering the tax-determination of such spirits, the quantity reported on the Form 179 may be recorded in the manufacturer's permanent records as the quantity received. However, the receiving gauge shall be noted on Form 179. Losses in transit, other than those attributable to variations in gauge not exceeding the 0.2 percent limitation as provided in this paragraph, must be determined but shall not be recorded in the manufacturer's permanent records as distilled spirits received.

(b) *Use.* Each manufacturer shall accurately determine, by weight or volume, the quantity of all distilled spirits used and enter such quantity in his permanent records. Where the quantity used is determined by volume, adjustments shall be made if the temperature of the spirits is above or below 60 degrees Fahrenheit. A correction table, Table No. 7, is available in 26 CFR Part 186, Gauging Manual. Losses after receipt, due to leakage, spillage, evaporation, or other causes shall be accurately recorded in the manufacturer's permanent records at the time such losses are determined.

12. A new section, § 197.130b, is inserted immediately following new § 197.130a, to provide that where shipments of spirits are made from a taxpaid room, a commercial invoice may be utilized as evidence of taxpayment in lieu of Form 179. The new section, § 197.130b, reads as follows:

§ 197.130b Evidence of taxpayment of distilled spirits.

Forms 179, required to be furnished by the supplier with each shipment of distilled spirits, shall be retained by the manufacturer as evidence of taxpayment of the spirits and to support information required to be furnished in supporting data filed with a claim: *Provided*, That where shipments are made from a taxpaid room operated in connection with a distilled spirits plant, the vendor's commercial invoice may be utilized in lieu of Form 179 if the invoice bears a certification as to taxpayment by the person who paid the tax, and includes the following information:

(a) The name and address of vendor;

(b) The registry number of the distilled spirits plant from which the spirits were withdrawn on determination of tax;

(c) The release number of the applicable Form 179;

(d) The name of the producer, blender, or warehouseman of the spirits;

(e) The serial number of the container;

(f) The serial number and date of the distilled spirits stamp; and

(g) The kind of spirits, proof, and proof gallons in the container.

Form 179 shall be secured and retained by the manufacturer for each shipment received from the bonded premises of a distilled spirits plant.

13. Section 197.133 is amended by inserting a reference to the commercial invoice provided for in § 197.130b. As amended, § 197.133 reads as follows.

§ 197.133 Retention of records.

Each manufacturer shall retain for a period of not less than 2 years all records required by this part, all Forms 179 received by him evidencing tax determination of the spirits, or commercial invoices as provided in § 197.130b, and all bills of lading received by him in respect of shipment of the spirits. In addition, a copy of each approved formula returned to the manufacturer shall be retained by him for not less than 2 years from the date he files his last claim for drawback under such formula. Such records, forms, and formulas shall be readily available during the manufacturer's regular business hours for examination and taking abstracts therefrom by internal revenue officers.

PART 201—DISTILLED SPIRITS PLANTS

PAR. D. 26 CFR Part 201 is amended as follows:

1. A new section, § 201.35a, is added immediately following § 201.35 to provide for retention of special tax stamps. As added, new § 201.35a reads as follows:

§ 201.35a Retention of special tax stamps.

A stamp issued as a receipt for the payment of the special tax shall be kept at the rectifier's place of business, available for inspection by any internal revenue officer during business hours.

(72 Stat. 1348; 26 U.S.C. 5146)

2. Sections 201.307 and 201.308 are amended to change Form 1685 from an application to a notice. As amended, §§ 201.307 and 201.308 read as follows:

§ 201.307 Permissible blending.

Fruit brandies distilled from the same kind of fruit at not more than 170° of proof may, for the sole purpose of perfecting such brandies according to commercial standards, be mixed or blended with each other, or with any mixture or blend of such fruit brandies on bonded premises. Rums may, for the sole purpose of perfecting them according to commercial standards, be mixed or blended with each other, or with any mixture or blend of rums on bonded premises. Before blending such rums or brandies, the proprietor shall give notice on Form 1685, in triplicate, in accordance with the instructions on the form and deliver one copy to the assigned officer. When spirits in packages are to be dumped, the proprietor shall also deliver to the assigned officer a list (one copy) of the serial numbers of the packages. Brandies or rums mixed or blended in accordance with this subpart may be packaged, stored, transported, transferred in bond, withdrawn free of tax, withdrawn without payment of tax, withdrawn on payment or determination of tax, or be otherwise disposed of, in the same manner as brandies or rums not mixed or blended. If brandy or rum, mixed or blended in accordance with this subpart is transferred in bond, Form 236 and Form 2630 (if any) shall show such fact and whether the brandy or rum is subject to tax imposed by section 5023, I.R.C.

(72 Stat. 1367; 26 U.S.C. 5234)

§ 201.308 Blending procedure.

The proprietor shall dump the brandy or rum to be blended, gauge the contents of the blending tank, gauge the packages (if the spirits are repackaged), and complete Form 1685. The proprietor shall record the gauge of packages (if any) on Form 2630 and the tank gauge on Form 1685, deliver the original of each form to the assigned officer, and retain a copy of each form for his files.

(72 Stat. 1367; 26 U.S.C. 5234)

3. Section 201.322 is amended to clarify the language. As amended, § 201.322 reads as follows:

§ 201.322 Entry and gauge.

Proprietors shall make entry for the bottling of distilled spirits in bond on Form 1515. A separate Form 1515 shall be executed for each lot of spirits to be so bottled. Before dumping packages of spirits, the proprietor shall notify the assigned officer and shall give him a suitable list (one copy) of the serial numbers of the packages to be dumped. Each package shall be carefully examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, or loss in excess of normal storage losses, such package shall not be dumped until released by the assigned officer; Form 1515 will be amended when necessary. The proprietor shall dump packages promptly after the assigned officer has given his approval therefor on Form 1515; however, no more spirits shall be dumped at any time than can be bottled expeditiously. After dumping the packages, the proprietor shall gauge the spirits and make a report of such gauge on Form 1515. Such gauge shall be made by weight and proof unless the assistant regional commissioner approves another method of gauging. The spirits shall be gauged either in the storage portion of the bonded warehouse or in the bottling-in-bond facilities; spirits may be transferred to such facilities by pipeline. The Form 1515 will then be resubmitted to the assigned officer for the release of the spirits.

(72 Stat. 1366; 26 U.S.C. 5233)

4. Two sections, §§ 201.331a and 201.467a, are inserted immediately following §§ 201.331 and 201.467, respectively, to make it clear that shipments of spirits without payment of tax to Puerto Rico are subject to the provisions of 27 CFR Part 5 with respect to standards of fill and labeling requirements. Also, shipments of wines and spirits with benefit of drawback to Puerto Rico are subject to the provisions of 27 CFR Parts 4 and 5, respectively, with respect to standards of fill and labeling requirements. The new sections, §§ 201.331a and 201.467a, read as follows:

§ 201.331a Spirits withdrawn for shipment to Puerto Rico.

Spirits withdrawn without payment of tax for shipment to Puerto Rico under the provisions of Part 252 of this chapter are subject to the provisions of 27 CFR Part 5 in respect of labeling requirements and standards of fill for bottles.

§ 201.467a Spirits and wines removed for shipment to Puerto Rico.

Taxpaid wines and spirits removed for shipment to Puerto Rico with benefit of drawback under the provisions of Part 252 of this chapter are subject to the provisions of 27 CFR Parts 4 and 5, respectively, in respect of labeling requirements and standards of fill for bottles.

5. Section 201.524 is amended to remove the requirement that certain additional marks be placed on portable containers when withdrawn from bonded premises (1) on determination of tax, (2) for use in wine production, and (3) for transfer in bond. As amended, § 201.524 reads as follows:

§ 201.524 Additional marks on portable containers.

In addition to the other marks required by this part, portable containers (other than bottles enclosed in cases) of spirits (including denatured spirits, as applicable) to be withdrawn from the bonded premises—

(a) Without payment of tax, for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones or supplies for certain vessels and aircraft shall be marked as provided in Part 252 of this chapter;

(b) On determination of tax shall be marked, if wooden packages, with the words "Rinsed" or "Not Rinsed"; if rinsed, the temperature of the water used shall be shown as provided in § 201.377; or

(c) Tax-free shall be marked to show the number of the permit of the tax-free user, the date of withdrawal, and the purpose of withdrawal, as, for example, "Hospital Use", "Scientific Purposes", "Use of U.S."

The proprietor may show the brand or trade name and may place caution notices and other material required by Federal, State, or local law and regulations on the Government head or side if such names and attachments do not interfere with or detract from the markings required by this subpart. Also the proprietor may show wine gallons or proof gallons. No other marks may be placed on the Government head or side except as authorized by the Director.

(72 Stat. 1360; 26 U.S.C. 5206)

6. Sections 201.527 and 201.529 are amended to remove the requirement that certain additional marks be placed on cases of bottled-in-bond spirits and on cases of bottled alcohol on the date tax is determined or when cases are otherwise withdrawn or removed. As amended, §§ 201.527 and 201.529 reads as follows:

§ 201.527 Marks on cases of bottled-in-bond spirits.

(a) *Mandatory marks.* The following information shall be plainly marked at the time of bottling on the Government side of each case of spirits bottled in bond:

(1) Serial number;
(2) The words "Bottled in Bond";
(3) Kind of spirits;
(4) Proof gallons;
(5) Plant number of bottler;
(6) Proof (if bottled in bond for export);
(7) Date filled.

Cases withdrawn for export, transfer to customs bonded warehouses or customs manufacturing bonded warehouses, transfer to foreign-trade zones, or for use as supplies on certain vessels and aircraft, shall bear the additional marks required by Part 252 of this chapter. Cases withdrawn tax-free shall be marked to show the number of the permit of the tax-free user and the purpose of the withdrawal as provided in § 201.524(c).

(b) *Other marks.* The proprietor may also show the real name and/or the trade name of the producer of the spirits, and may place other material required by Federal, State, or local law and regulations on the Government side, if such names and attachments do not interfere with or detract from the markings required by this subpart. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(72 Stat. 1360, 1366, 84 Stat. 1965; 26 U.S.C. 5206, 5233, 5066)

§ 201.529 Cases of bottled alcohol.

(a) *Mandatory marks.* The Government side of each case of alcohol bottled in accordance with the provisions of Subpart K of this part shall be marked with the word "Alcohol", shall be serially numbered, and shall be marked to show the plant number, proof, and proof gallons. Cases withdrawn for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones, or supplies for certain vessels and aircraft shall bear the additional marks required by Part 252 of this chapter. Cases withdrawn tax-free shall be marked to show the number of the permit of the tax-free user and the purpose of the withdrawal as provided in § 201.524(c).

(b) *Other marks.* The proprietor may also show the brand or trade name, and may place other material required by Federal, State, or local law and regulations on the Government side, if such names and attachments do not interfere with or detract from the marks required by this subpart. No other marks may be placed on the Government side except as authorized by the Director as provided in § 201.530.

(72 Stat. 1360, 1369; 26 U.S.C. 5206, 5235)

§ 201.548 [Deleted]

7. Section 201.548 is deleted.

8. Section 201.563 is amended to conform to the language in section 5008, I.R.C. As amended, § 201.563 reads as follows:

§ 201.563 Claims.

Claims for refund or credit of tax on spirits voluntarily destroyed under this subpart shall be filed pursuant to the provisions of Subpart C of this part. Where spirits destroyed on bottling premises contain alcoholic ingredients which were not withdrawn by the proprietor from bond on tax determination, the tax on such ingredients is not allowable; however, this does not preclude, where applicable, refund or credit of the rectification tax on the entire quantity destroyed. The quantity of all spirits and alcoholic ingredients subject to the operational loss provisions of this part and which are destroyed on bottling premises shall be reported on Form 2611. All claims under this subpart must be filed within 6 months from the date of destruction.

(72 Stat. 1323, as amended; 26 U.S.C. 5008)

§ 201.601 [Amended]

9. The last sentence of § 201.601 is amended to read "When the assistant regional commissioner finds that any samples withdrawn were in excess of the size and number necessary for the conduct of the proprietor's business, or that any samples were used or disposed of in any manner not authorized by this part, he shall proceed to collect the tax thereon."

§ 201.635 [Deleted]

10. Section 201.635 is deleted.

PART 245—BEER

PAR. E. 26 CFR Part 245 is amended as follows:

§§ 245.2, 245.57, 245.66, 245.105, 245.111a, 245.126, 245.221, 245.222, 245.225, 245.233, 245.236–245.239 [Amended]

1. Section 245.2, 245.57, 245.66, 245.105, 245.111a, 245.126, 245.221, 245.222, 245.225, 245.233, 245.236, 245.237, 245.238, and 245.239, are amended by changing "Alcohol and Tobacco Tax Division", wherever the term appears, to "Alcohol, Tobacco and Firearms Division."

§ 245.5 [Amended]

2. Section 245.5 is amended by changing "alcohol and tobacco tax" to read "alcohol, tobacco and firearms" in the definition of "Assistant regional commissioner" and by changing "Alcohol and

Tobacco Tax Division" to read "Alcohol, Tobacco and Firearms Division" in the definitioin of "Director, Alcohol and Tobacco Tax Division."

3. Section 245.82 is amended by changing the heading from "Posting special tax stamp" to "Examination of special tax stamps" and by changing the requirement in the text that a special tax stamp be posted to a requirement that the stamp be available for inspection. As amended, § 245.82 reads as follows:

§ 245.82 Examination of special tax stamps.

All stamps denoting payment of special tax shall be kept available for inspection by any internal revenue officer during business hours.

(72 Stat. 1348; 26 U.S.C. 5146)

4. Section 245.125 is amended by changing "Alcohol and Tobacco Tax Division" to "Alcohol, Tobacco and Firearms Division" and by adding a definition of "Breweries of the same ownership." As amended, § 245.125 reads as follows:

§ 245.125 Barrels and kegs.

(a) *General.* The brewer's name or trade name and the place of production (city and, where necessary for identification, State) shall be embossed on, idented or branded in, or (subject to the approval of the Director, Alcohol, Tobacco and Firearms Division) otherwise durably marked on each barrel and keg of beer: *Provided*, That where the place of production is clearly shown on the bung or on the tap cover or on a label securely affixed to each barrel or keg, the place of production need not be embossed on, idented or branded in, or otherwise durably marked on the barrel or keg. No statement as to payment of internal revenue taxes shall be shown.

(b) *Breweries of same ownership.* Where two or more breweries are owned and operated by the same person, firm, or corporation, the place of production may be shown as provided in paragraph (a) of this section, or the locations of more than one such brewery may be so shown. Where such marking includes a location or locations other than that at which the beer currently in the container was produced, the location of the brewery at which the beer was produced must be shown on the bung or on the tap cover or on a label securely affixed to each barrel or keg: *Provided*, That the brewer may employ on the label a system of coding or marking, satisfactory to the assistant regional commissioner, which will permit internal revenue officers to readily identify the particular brewery at which the beer was produced. If more than one commonly owned brewery is located in the same city, the location by street number will also be shown on the label (printed or indicated by code as provided in this section). For the purposes of this subpart, the conditions and requirements of § 245.140 regarding breweries belonging to the same brewer shall be applicable in establishing that breweries are of the same ownership.

(72 Stat. 1389; 26 U.S.C. 5412)

§ 245.208 [Amended]

5. Section 245.208 is amended by changing "Alcohol and Tobacco Tax" to "Alcohol, Tobacco and Firearms."

§ 245.227 [Amended]

6. Section 245.227 is amended by changing the reference to "district director" to "director of the service center."

§ 245.241 [Amended]

7. Section 245.241 is amended by changing "alcohol and tobacco tax" to "alcohol, tobacco and firearms."

[FR Doc.71-9623 Filed 7-7-71;8:49 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-26; Notice No. 71-14]

PART 391—QUALIFICATIONS OF DRIVERS

PART 392—DRIVING OF MOTOR VEHICLES

Hearing Aids and Hearing Standards

On April 7, 1971, the Director of the Bureau of Motor Carrier Safety issued a notice of proposed rule making, inviting interested persons to comment on a proposal to permit persons who must wear hearing aids to meet minimum physical qualifications to drive commercial motor vehicles in interstate or foreign commerce (36 F.R. 7144).

No objections were received. The available evidence indicates that, because of improvements in hearing aids technology in recent years, persons who must wear hearing aids can drive commercial vehicles without appreciably higher risk of accidents than the general population. Accordingly, new rules with respect to the use of a hearing aid to meet minimum physical qualifications and while driving a motor vehicle are being adopted. Since this amendment relieves a restriction, it is effective on the date of issuance set forth below.

The Director is also taking this opportunity to modify the standards for determining whether a prospective driver can hear well enough to pass a medical examination. The maximum permissible hearing loss is being increased from 25–30 decibels in the better ear to a loss of an average of 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz in an audiometric test. This change has been made because medical advisors have informed the Bureau that the new standard is more realistic in permitting persons to drive who have moderate hearing losses. Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure on it are unnecessary, and it is effective on the date of issuance set forth below.

In consideration of the foregoing, §§ 391.41 and 391.43 of Part 391 in Chapter III of Title 49 CFR are amended as set forth below, and a new § 392.9b is added to Part 392 in Chapter III of Title 49 CFR, reading as set forth below.

These amendments are issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority in 49 CFR 1.48 and 49 CFR 389.4.

Issued on July 1, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

I. Section 391.41(b)(11) of the Motor Carrier Safety Regulations is revised to read as follows:

§ 391.41 Physical qualifications for drivers.

* * * * *

(b) A person is physically qualified to drive a motor vehicle if he—

* * * * *

(11) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

* * * * *

II. Section 391.43(e) of the Motor Carrier Safety Regulations is amended by adding the following sentences after the form of medical examiner's certificate in the paragraph:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(e) * * *

If the driver is qualified only when wearing a hearing aid, the following statement must appear on the medical examiner's certificate: "qualified only when wearing a hearing aid."

III. Part 392 of the Motor Carrier Safety Regulations is amended by adding the following new § 392.9b:

§ 392.9b Hearing aid to be worn.

A driver whose hearing meets the minimum requirements of § 391.41(b)(11) of this subchapter only when he wears a hearing aid shall wear a hearing aid and have it in operation at all times while he is driving. The driver must also have in his possession a spare power source for use in the hearing aid.

IV. The table of contents of Part 392 of the Motor Carrier Safety Regulations is amended by adding the following item after "392.9a Spectacles to be worn.":

Sec.
392.9b Hearing aid to be worn.

[FR Doc.71-9589 Filed 7-7-71;8:46 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 69-7; Notice 10]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection; Reconsideration and Amendment

The purpose of this notice is to respond to petitions for reconsideration of Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, in § 571.21 of Title 49, Code of Federal Regulations. The petitions addressed herein are those dealing with seat belts and seat belt warning systems. A notice responding to petitions concerning the passive protection aspects of the standard will be issued shortly and the standard republished in its entirely at that time.

The standard as issued March 3, 1971 (36 F.R. 4600), established January 1, 1972, as the first date in the progressive stages of the Occupant Crash Protection requirements. Two petitioners, Mercedes-Benz and American Motors, requested a delay in the introduction of the interim protection systems. American Motors requested a delay until April 1, 1972, to allow for adequate compliance testing, and Mercedes requested a date of July 1, 1972, to avoid disruption of the 1972 model production which begins on July 1, 1971. Upon review of all available information, the NHTSA has concluded that the date is not unreasonably demanding, and the requests are denied.

The improved seat belt systems required in passenger cars that do not provide full passive protection were the subject of several petitions. Primary attention was directed to the belt warning system and the conditions under which it must operate. As issued on March 3, the standard provides that the system shall operate when and only when the ignition is on, the transmission is in any forward or reverse position, and either the driver's lap belt is not extended at least to the degree necessary to fit a 5th-percentile adult female or a person of at least the weight of a 50th-percentile 6-year old is seated in the right front position and the belt is not extended to the length necessary to fit him.

The intent of the transmission position requirement was to require operation of the warning system when the vehicle was likely to be in motion, and the effect of the "when and only when" phrase was to require deactivation in all other positions. Some petitioners argued that rearward motion was not likely to be fast enough to present a hazard. Others stated, on the other hand, that vehicles with automatic transmissions should deactivate the system only in "Park", to encourage drivers to use that position when leaving the vehicle with the engine running. Similarly, it was requested that alternative means of warning system deactivation be permitted on cars with manual transmissions, with one alternative being application of the parking brake. The NHTSA has found these arguments to have merit, and therefore amends S7.3 of the standard in several respects. The amended section requires, as the first condition necessary to activate the warning, that the ignition be "on" and that the transmission be in a forward gear. Actuation is permitted in reverse, but is no longer required. The section is further amended to require that the system on a car with automatic transmission shall not activate when the transmission is in "park" and that the system on a car with manual transmission shall not activate when the parking brake is on or, alternatively, when the transmission is in neutral.

Several petitions stated that although the length necessary to fit a 50th-percentile 6-year-old or a 5th-percentile adult female may be objectively determinable, the sensor in a system may not exactly measure this length due to unavoidable variances in production. To allow for this variance, a manufacturer must calibrate the retractors so that the range of this variance will be beyond the minimum length, and as a result it is likely that the warning will continue to operate in some situations where a small occupant has properly fastened the belt. A similar objection was raised by Mercedes-Benz and illustrated by the case of a small child whose bouncing could cause the belt to retract far enough to trigger the warning intermittently. These objections are considered to have merit, and the NHTSA has therefore decided to specify a range of extensions below which the system must activate and above which it must not activate. The lower end of the range is an extension of 4 inches from the normally stowed position, and the upper end is the extension necessary to fit a 50th-percentile 6-year-old child when the seat is in the rearmost and lowest position. This range will allow manufacturers a tolerance of several inches in most cases and will enable them to avoid the problems of inadvertent activation.

Mercedes-Benz requested that the warning be deactivated by closing the buckle and stated that this would be simpler and more effective than deactivation by belt extension. Although Mercedes' objections are partially met by the amendments made by this notice to the warning system requirements, a related consequence of the amendments is that the extension needed to close the buckle would fall within the range of discretionary deactivation. There does not appear to be good reason to prohibit deactivation by means of the buckle, and the standard is therefore amended to permit buckle deactivation as an alternative to deactivation by measurement of the belt extension.

General Motors requested a minimum duration for the warning signal beyond which it would not be required to operate. On review, this request appears to satisfy the need for warning and to reduce the annoyance of the signal in situations where unfastening of the belt is necessary. A minimum activation period of 1 minute is therefore provided.

One other request for amendment of the warning system requirements has been found meritorious. American Motors requested that the words "Fasten Belts" be permitted as an alternative to "Fasten Seat Belts." The change would not affect the sense of the message, and the request is granted. Requests in other petitions for the use of symbols in place of words, and for a two-stage warning sequence, have been evaluated and rejected.

In its petition, Chrysler requested the adoption of size specifications for the buttocks of a dummy representing a 6-year-old child, on the grounds that currently available dummies do not correspond to human shape and do not activate the Chrysler warning system as a child would. The problem is not considered serious enough to warrant amendment of the standard in the absence of satisfactory data on the shape of 6-year-old children, and the request is denied.

A number of petitions dealt with other aspects of the seat belt options. The requirement for retractors at all outboard seating positions, including the third seats in station wagons, was objected to by Ford and Chrysler because of installation difficulties and the low frequency of seat occupancy. The similarity of these seating positions to the center positions, which are exempt from the retractor requirements, has been found persuasive and retractors are therefore required only for outboard positions on the first and second seats.

Another petition requested that the shoulder belt of Type 2 assemblies should not adjust to fit 50th-percentile 6-year-olds, as presently required for passenger seats by S7.1.1. As pointed out in the petition, the previous rule had specified the 5th-percentile adult female as the lower end of the range for shoulder belts. The change effected by the March 3 rule was inadvertent, and the range of occupants is therefore specified as being from the 5th-percentile adult female to the 95th-percentile male.

Correspondence from Toyo Kogyo requesting an interpretation of S7.1.2 has pointed out a need to clarify the requirement that the intersection of an upper torso belt with a lap belt must be 6 inches from the occupant's centerline. The phrase "adjusted in accordance with the manufacturer's instructions" is intended to refer to adjustment of the upper torso belt, and not to the lap belt which must adjust automatically. The section is amended to clarify this intent.

The second options under the 1972 and 1973 requirements (S4.1.1.2, S4.1.2.2) are amended to expressly permit a Type 2 seat belt assembly with a detachable upper torso restraint at any seating position. A choice of belt systems is permitted under the third option in 1972, and there was no intent under the second options to limit all positions to Type 1 belts.

Several requests and questions were raised regarding the status of "passive" seat belt systems under the standard as issued March 3. Some belt-based concepts have been advanced that appear to be capable of meeting the complete passive protection options and further regulation of their performance does not appear necessary. With respect to the options other than the complete passive protection options, a question has been raised as to whether a passive belt must be used in conjunction with active belt systems or conform to the adjustment, latching, and warning system requirements applicable to active belts. Upon review, the NHTSA has concluded that the passive belt system that is not capable of full protection in all crash modes is in some respects appropriately regulated by seat belt requirements, and is in other respects entitled to treatment as a passive system.

To deal expressly with passive belts, a new general requirements section is added to state the applicability of various requirements to passive belts and to make it clear that redundant active belts need not be employed if passive belts are used to meet any option requiring Type 1 or Type 2 belts.

Many of the requirements applicable to belts have been adopted because of properties that exist regardless of whether the system is active or passive. The range of the belt's adjustment, the elasticity and width of its webbing, and the integrity of its attachment hardware are all known to affect the protection given. As amended, the standard therefore requires a passive belt to conform to the adjustment requirements of S7.1 and to the webbing, attachment hardware, and assembly performance requirements of Standard No. 209. The petitioners' objections as to the application of the latching requirements to a system that does not require latching and of the warning system requirements to a system that would be functional unless willfully defeated have been found to have merit. A passive belt system is therefore not required to conform to S7.2 and S7.3.

In order to assure that a passive belt or other passive system will not hinder an occupant from leaving the vehicle after a crash, the NHTSA proposes in a separate notice in today's issue of the FEDERAL REGISTER (36 F.R. 12866) to require a release for the occupant that either operates automatically in the event of a crash, or operates manually at a single point that is accessible to the seated occupant.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, in § 571.21 of Title 49, Code of Federal Regulations, is amended to read as follows:

1. S4.1.1.2 is amended to read as follows:

S4.1.1.2 *Second option—lap belt protection system with belt warning.*

(a) At each designated seating position have a Type 1 seat belt assembly or a Type 2 seat belt assembly with a detachable upper torso portion that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard.

2. S4.1.2.2 is amended to read as follows:

S4.1.2.2 *Second option—head-on passive protection system.* The vehicle shall—

(a) At each designated seating position, have a Type 1 seat belt assembly or a Type 2 seat belt assembly with a detachable upper torso portion that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard.

3. A new section S4.5.3 is added to read as follows:

S4.5.3 *Passive seat belt assemblies.* A Type 1 or Type 2 seat belt assembly that requires no action by vehicle occupants may be used under S4 to meet the crash protection requirements of any option that requires a seat belt assembly, and in place of a seat belt assembly required to conform to S7.2 and S7.3 of this standard, if:

(a) The seat belt assembly conforms to S7.1 of this standard; and

(b) The seat belt assembly conforms to the webbing, attachment hardware, and assembly performance requirements of Standard No. 209.

4. S7.1 is amended to read as follows:

S7.1 *Adjustment.*

S7.1.1 Except as specified in S7.1.1.1 and S7.1.1.2, the lap belt of any seat belt assembly furnished in accordance with S4.1.1 and S4.1.2 shall adjust by means of an emergency-locking or automatic-locking retractor that conforms to Standard No. 209 to fit persons whose dimensions range from those of a 50th-percentile 6-year-old child to those of a 95th-percentile adult male and the upper torso restraint shall adjust by means of an emergency-locking retractor or a manual adjusting device that conforms to Standard No. 209 to fit persons whose dimensions range from those of a 5th-percentile adult female to those of a 95th-percentile adult male, with the seat in any position and the seat back in the manufacturer's nominal design riding position.

S7.1.1.1 A seat belt assembly installed at the driver's seating position shall adjust to fit persons whose dimensions range from those of a 5th-percentile adult female to those of a 95th-percentile adult male.

S7.1.1.2 A seat belt assembly installed at any designated seating position other than the outboard positions of the front and second seats shall adjust either by a retractor as specified in S7.1.1 or by a manual adjusting device that conforms to Standard No. 209.

S7.1.2 The intersection of the upper torso belt with the lap belt in any Type 2 seat belt assembly furnished in accordance with S4.1.1 or S4.1.2, with the upper torso manual adjusting device, if provided, adjusted in accordance with the manufacturer's instructions, shall be at least 6 inches from the front vertical centerline of 50th-percentile adult male occupant, measured along the centerline of the lap belt, with the seat in its rearmost and lowest adjustable position and with the seat back in the manufacturer's nominal design riding position.

5. S7.3 is amended to read as follows:

S7.3 *Seat belt warning system.*

S7.3.1 Seat belt assemblies provided at the front outboard seating positions in accordance with S4.1.1 or S4.1.2 shall have a warning system that activates, for at least 1 minute, a continuous or intermittent audible signal and continuous or flashing warning light, visible to the driver, displaying the words "Fasten Seat Belts" or "Fasten Belts" when condition (a) exists simultaneously with either of conditions (b) or (c).

(a) The vehicle ignition switch is in the "on" position and the transmission gear selector is in any forward position.

(b) The driver's lap belt is not extended at least 4 inches from its normally stowed position.

(c) A person of at least the weight of a 50th-percentile 6-year-old child is seated in the right front designated seating position and the lap belt for that position is not extended at least 4 inches from its normally stowed position.

S7.3.2 The warning system shall either—

(a) Not activate when the lap belt at each occupied front outboard seating position is extended to any length greater than the length necessary to fit a 50th-percentile 6-year-old child when the seat is in the rearmost and lowest adjustment position; or

(b) Not activate when the lap belt at each occupied front outboard position is buckled.

S7.3.3 The warning system shall not activate if the vehicle has an automatic transmission and the gear selector is in the "Park" position.

S7.3.4 Notwithstanding the provisions of S7.3.1, the warning system on a vehicle that has a manual transmission shall either—

(a) Not activate when the transmission is in neutral; or

(b) Not activate when the parking brake is engaged.

Effective date: January 1, 1972.

(Secs. 103, 108, 112, 114, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1397, 1401, 1403, 1407; delegation of authority at 49 CFR 1.51)

Issued: July 2, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc.71-9618 Filed 7-2-71;2:42 pm]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[S.O. 1076]

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Certain Trackage of Union Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service